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June 18, 2001

RECEIVED

JUN 18 2001

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

HAND-DELIVERED

Ms. Magalie Roman Salas
Secretary
Office of the Secretary
FEDERAL COMMUNICATIONS COMMISSION
445 12th Street, S.W.
TW-A325
Washington, D.C. 20554

Re: *Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Auburn, Alabama), DA 01-1093, released April 27, 2001 (Notice of Proposed Rule Making in MM Docket No. 01-104, RM-10103) – Comments and Counterproposal of Radio South, Inc.*

Dear Madam Secretary:

On behalf of Radio South, Inc. ("RSI"), and pursuant to Sections 1.415 and 1.420 of the Commission's rules, 47 C.F.R. §§ 1.415, 1.419 (2000), I enclose herewith, for filing, an original and four (4) copies of its Comments and Counterproposal in response to the *Notice of Proposed Rule Making* in the proceeding referenced above. The maps and certification page that accompany the Technical Statement appended to this filing as Exhibit 1 are facsimiles. Original, full-color maps, and a certification page bearing Jefferson Brock's original signature, will be filed in substitution of the facsimiles within the next few days.

Kindly stamp and return to this office the enclosed receipt copy of the filing designated for that purpose. You may direct any questions concerning this filing to the undersigned, counsel to Radio South, Inc.

Respectfully submitted,



Eric T. Werner

Enclosures

cc: Service List
Mr. G. Dean Pearce

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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

RECEIVED
JUN 18 2001
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Amendment of Section 73.202(b),) MM Docket No. 01-104
Table of Allotments,) RM-10103
FM Broadcast Stations)
(Auburn, Alabama).)

To: Chief, Allocations Branch

**COMMENTS AND COUNTERPROPOSAL
OF RADIO SOUTH, INC.**

Radio South, Inc. ("RSI"), licensee of commercial radio broadcast stations WLXY(FM), Channel 264C3, Northport, Alabama, and WTUG(FM), Channel 225C1, Tuscaloosa, Alabama, by its attorneys and pursuant to Sections 1.415 and 1.420 of the rules of the Federal Communications Commission ("FCC" or "Commission"), 47 C.F.R. §§ 1.415, 1.420 (2000), hereby submits its comments and a counterproposal in response to the *Notice of Proposed Rule Making* ("Notice") released on April 27, 2001, in the above-captioned rulemaking proceeding.¹

In support whereof, the following is shown:

A. RSI's COUNTERPROPOSAL

RSI proposes that Channel 263C1 at Northport, Alabama, be re-allotted from Northport to Helena, Alabama, to become that community's first local service, and that the license for Station WLXY be changed to reflect Helena as the Station's community of license. To preserve

¹ *In the Matter of Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Auburn, Alabama), et al., DA 01-1093, released April 27, 2001 (Notice of Proposed Rule Making in MM Dockets No. 01-102, 01-103, 01-104, 01-105, and 01-106) ["Notice"]*.

the only local FM service in Northport, RSI further proposes that Channel 225C1 be re-allotted from Tuscaloosa to Northport, and that the license for Station WTUG be modified to specify Northport as the Station's community of license. Thus, the resulting change in Section 73.202 of the Commission's rules would be as follows:

Community of License	Present	Proposed
Helena	(none)	263C1
Northport	263C1	225C1
Tuscaloosa	225C1, 239C1, 288A	239C1, 288A

The proposed reallocation of Channel 263C1 from Northport to Helena is filed pursuant to the provisions of Section 1.420(i) of the Commission's rules, which provides for the re-allotment of a channel to a new community and modification of the station's license or construction permit to reflect the new community, without competition from other applicants for the new allotment.² Under the Commission's decisions in *Community of License* and the *Reconsideration Order*, the re-allotment of the new community must serve the Commission's allotment policies and priorities. In evaluating competing FM allotment proposals, the FM priorities are (1) first aural service, (2) second aural service, (3) first local service, and (4) other public interest factors.³ Co-equal weight is given to Priorities (2) and (3).⁴

² See *Report and Order in MM Docket No. 88-526*, ("Community of License"), 4 FCC Rcd 4870 (1989); *Memorandum Opinion and Order in MM Docket No. 88-526* ("Reconsideration Order"), 5 FCC Rcd. 7094 (1990).

³ See *Second Report and Order in BC Docket No. 80-130* ("FM Priorities"), 90 F.C.C.2d 88 (1982).

⁴ *Id.*

RSI recognizes that, in its *Reconsideration Order*, the Commission stated it would not customarily grant change of community proposals that would result in the removal of a community's sole local transmission service. However, RSI's instant Counterproposal would not remove Northport's only local aural transmission service. Moreover, as hereinafter demonstrated, the proposed allotment of a first local transmission service to Helena, Alabama is also to be preferred over the pending proposal of Auburn Network, Inc., to allot Channel 263A to Auburn, Alabama as that community's second local FM transmission service when analyzed in light of the Commission's FM allotment policies and priorities.

Attached hereto as Exhibit 1, and incorporated by reference herein, is a Technical Statement ("Statement") prepared by Jefferson Brock of Graham Brock, Inc., RSI's technical consultants, which demonstrates that the re-allotments proposed by RSI can be effectuated in compliance with the Commission's rules. If the Counterproposal is granted, RSI will expeditiously apply for authority to make the minor modifications to the facilities of Stations WLXY and WTUG that will be necessary to fulfill the changes in community.

B. PUBLIC INTEREST BENEFITS OF THE COUNTERPROPOSAL

RSI's Counterproposal will satisfy the Commission's statutory obligation under Section 307(b) of the Communications Act to provide a "fair, efficient and equitable distribution of radio service" to the various states and the communities within them more effectively than Auburn Network's proposal. Relocating Station WLXY from Northport to Helena, as proposed, would yield an increase in service to 760,691 persons in a 12,064.8 square kilometer area over that now reached by the Station's presently licensed facilities at Northport. By contrast, Auburn

Network's pending proposal would provide service to only 101,616 persons in 2,498.3 square kilometers.⁵

RSI's Counterproposal is also to be preferred under the Commission's allotment policies and priorities. Re-allotment of Channel 263C1 would bring to Helena its first local service (priority 3). Whereas grant of Auburn Network's pending proposal would provide no similar benefit to that community under the Commission's allotment priorities. At best, Auburn Network's proposal to bring a second local FM transmission service to the City of Auburn falls under priority 4 (Other Public Interest Factors). However, for the reasons discussed herein, even measured against this broad standard, Helena is to be preferred over Auburn.

The City of Helena is situated in central Alabama, within the Birmingham urbanized area; however, this fact should not weigh against RSI's Counterproposal because, notwithstanding their proximity to one another, Helena is demonstrably independent of its nearby neighbor. Indeed, the very facts that demonstrate this independence, also evidence the reasons why Helena is the more deserving community for an allotment of new radio service.

The Commission set forth its analysis for evaluating the independence of a community located within a metropolitan urbanized area in its decision in *Faye and Richard Tuck*.⁶ Under the *Tuck* analysis, the Commission considers the signal population coverage, the size and proximity of the proposed community to the urban center, and the interdependence of the proposed community. With respect to the last factor, the Commission examines the following eight factors:

⁵ See Statement ¶ 8

⁶ *Faye and Richard Tuck*, 3 FCC Rcd 5374 (1988)

- (1) the extent to which the community residents work in the larger metropolitan area, rather than the specified community;
- (2) whether the smaller community has its own newspaper or other media that covers the community's needs and interests;
- (3) whether community leaders and residents perceive the specified community as being an integral part of, or separate from, the larger metropolitan area;
- (4) whether the specified community has its own local government and elected officials;
- (5) whether the smaller community has its own local telephone book provided by the local telephone company or zip code;
- (6) whether the community has its own commercial establishments, health facilities, and transportation systems;
- (7) the extent to which the specified community and the central city are part of the same advertising market; and
- (8) the extent to which the specified community relies on the larger metropolitan area for various municipal services such as police, fire protection, schools, and libraries.⁷

The Commission has considered a community to be independent when a majority of these factors evidence that the community is distinct from the nearby urbanized area.⁸ As the following facts indicate, Helena is clearly independent of the City of Birmingham, and worthy of its own local broadcast service.

Under the first prong of the test – the extent to which the proposed station will provide service to the entire Urbanized Area – Helena clearly satisfies the Commission's standards. As the attached engineering Statement reflects, under RSI's Counterproposal, WLXY would provide

⁷ *Id.* at 5378.

⁸ *Parker and St. Joe, Florida*, 11 FCC Rcd 1095 (1996); *Jupiter and Hobe Sound, Florida*, 12 FCC Rcd 3570 (1997).

a 70dBu signal to only 31.7 percent – less than one-third – of the Birmingham Urbanized Area,⁹ Under the Commission’s past decisions, such limited coverage argues strongly in favor of a finding of Helena’s independence.¹⁰

The second criterion – Helena’s size relative to Birmingham – similarly weighs in favor of Helena. Data from the most recent census indicate that Helena has a present population of 10,295.¹¹ This number is substantial in its own right, but takes on even greater significance when one considers that the city’s population was only approximately 4,500 in 1990, and that it is expected soon to grow to 15,000.¹² In addition, although at its present size, Helena’s population represents only 4.4 percent of Birmingham’s current population, in the past “such a percentage has not precluded favorable consideration as a first local service.”¹³

Finally, Helena’s independence from Birmingham becomes most evident upon consideration of the eight *Tuck* factors, as is manifest in the letter from Helena’s Mayor, Charles W. Penhale, which accompanies this Counterproposal. With respect to the first factor,

⁹ See Statement ¶ 8.

¹⁰ Indeed, the Commission has found communities to be independent even where the extent of coverage of the Urbanized Area in question was significantly greater than that presented here. See, e.g., *Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Anniston and Ashland, Alabama, and College Park, Covington, Milledgeville and Social Circle, Georgia)*, DA 01-333, released February 9, 2001 [hereinafter “*College Park, Georgia*”] (70 dBu over 45% of Urbanized Area); *Oraibi and Leupp, Arizona*, 14 FCC Rcd 13547 (1999) (70 dBu over 90% of an Urbanized Area); *Mullins and Briarcliffe Acres, South Carolina*, 14 FCC 10516 (1999) (70 dBu over 67% of an Urbanized Area).

¹¹ See U.S. Census Bureau, Table DP-1, Profile of General Demographic Characteristics: 2000 (Geographic Area: Helena City, Alabama). A copy of Table DP-1 is appended hereto as Exhibit 2. See also Letter from Charles W. Penhale, Mayor, Helena, Alabama, to Magalie Roman Salas, dated June 16, 2001, appended hereto as Exhibit 3 (“Penhale Letter”).

¹² See Penhale Letter.

¹³ *College Park, Georgia*, DA 01-333 ¶ 6 (finding 5.2% acceptable). See also, e.g., *Ada, Newcastle and Watonga, Oklahoma*, 11 FCC Rcd 16896 (1996); *Bay St. Louis and Poplarville, Mississippi*, 10 FCC Rcd 13144 (1995); *Scotland Neck and Pinetops, North Carolina*, 7 FCC Rcd 5113 (1992); and *D'Iberville and Wiggins, Mississippi*, 10 FCC Rcd 10796 (1995).

approximately 20 percent of Helena's population work within the city limits; however, this does not mean that the remainder work in Birmingham. To the contrary, approximately 30 percent of Helena's working population are employed in the one of the several other neighboring communities adjacent to Helena such as Hoover and Pelham. Moreover, as Mayor Penhale's letter indicates, Helena's population growth has precipitated significant growth in the city's commercial sector, with a commensurate influx of new businesses including those in the high-tech sector, retail, professional services, and food service,¹⁴ portending an increase in employment within the city to follow. Moreover, the Commission has recently found a resident working population less than 20 percent "sufficient to support a favorable finding on this factor."¹⁵

As to the second factor, like the *South Fulton Neighbor* in the *College Park, Georgia* case, Helena is also served by a local paper, the *Shelby County Reporter*, that covers local news and events in Helena and the surrounding communities in northern Shelby County, and carries advertising and legal notices directed to residents of Helena.¹⁶ Likewise, just as in *College Park, Georgia*, the City of Helena publishes a monthly newsletter on events in the city that includes

¹⁴ See Penhale Letter at 2.

¹⁵ *College Park, Georgia*, DA 01-333 ¶ 7 (16% acceptable).

¹⁶ See Penhale Letter at 2. In *College Park, Georgia*, the Commission observed that "[w]e continue to believe that the South Fulton Neighbor, which excludes Atlanta, national and international news, sufficiently covers the needs and interests of College Park to warrant a favorable determination with respect to second factor. While the South Fulton Neighbor covers other independent communities such as Hapeville, Stockbridge, Fairburn and East Point, it does provide an outlet for College Park by publishing College Park news, sports, advertising, public meetings and College Park legal notices." *College Park, Georgia*, DA 01-333 ¶ 7. This same description could as easily be applied to the *Shelby County Reporter*.

commercial advertising, is presently developing its own Web site, and has access to a local government channel on the local cable television system.¹⁷

Helena unquestionably satisfies factor five of the *Tuck* analysis. An incorporated community since 1917, Helena has a city government consisting of a mayor, a five-member city council, a City Attorney, a City Clerk, a City Auditor, and a City Engineer. In addition, the city maintains its own independent police force and fire department.¹⁸ A Planning Commission oversees zoning and development, and the city's Utility Board operates the city's water and sewerage utilities.¹⁹ The city operates its own park system and public library and enforces its own zoning, building, and plumbing codes.²⁰ Mayor Penhale's Letter leaves little doubt that the city officials firmly view Helena as a self-sustaining community separate and distinct from Greater Birmingham.

As some of the foregoing discussion has already demonstrated, Helena also exhibits all the indicia of independence with respect to factors five through eight of the *Tuck* analysis. Although it shares a telephone directory with the other independent communities of Shelby County, Helena possesses its own zip code and, indeed, has outgrown its existing Post Office facilities.²¹ It possesses its own commercial establishments and health facilities.²² Finally,

¹⁷ See Penhale Letter at 2. A sample copy of the city's newsletter, the *Helena City News*, is appended hereto as Exhibit 4.

¹⁸ *Id.* at 1.

¹⁹ *Id.* Natural gas and electricity services are provided by private utilities, ALAGASCO and Alabama Power, respectively.

²⁰ *Id.*

²¹ *Id.*

²² *Id.* In addition to those identified in Mayor Penhale's letter, the Shelby County Chamber of Commerce reports that Helena also is home to an array of businesses engaged in such varied commercial activities as, for

(continued)

Helena relies not at all upon Birmingham for any of its utilities, public services, schools or libraries and, indeed, with respect to the critical services of Police, Fire and Rescue, and Water and Sewerage, the city is entirely self sufficient. In light of these characteristics, there can be no doubt that, notwithstanding its proximity to Birmingham, Helena is a distinct, vital and growing community that deserves to have its own local broadcast service.

C. CONCLUSION

WHEREFORE, for the foregoing reasons, RSI respectfully requests that the Commission re-allot Channel 263C1 from Northport, Alabama to Helena, Alabama; re-allot Channel 225C1 from Tuscaloosa, Alabama, to Northport, Alabama; and change the communities of license of Stations WLXY and WTUG to Helena and Northport, respectively.

Respectfully submitted,

RADIO SOUTH, INC.

By



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Its Attorney

June 18, 2001

(continued)

example, an assisted care facility for senior citizens, a chiropractic practice, banking, certified public accounting, heating and cooling service, auto repair, carpet and tile cleaning, computer and software consulting, and construction.

EXHIBIT 1

COMMENTS AND COUNTERPROPOSAL

MM DOCKET #01-104

RADIO SOUTH, INC.

RE-ALLOT CHANNEL 263C1

HELENA, ALABAMA

RE-ALLOT CHANNEL 225C1

NORTHPORT, ALABAMA

June 2001

TECHNICAL STATEMENT

1. This technical statement and attached exhibits have been prepared on behalf of Radio South, Inc. (RSI), licensee of WLXY, Channel 264C3, Northport, Alabama, and WTUG (FM), Channel 225C1, Tuscaloosa, Alabama.¹ These comments are submitted in response to a Notice of Proposed Rule Making, MM Docket #01-104. In this instant matter, Auburn Network, Inc., has requested that Channel 263A be allotted to Auburn, Alabama, as that community's second local service. RSI herein submits a counterproposal and requests that, in lieu of the proposed allotment at Auburn, Alabama, Channel 263C1 at Northport, Alabama, be re-allotted from Northport to Helena, Alabama. Further, in order to not remove the only local FM service to Northport, RSI also requests that Channel 225C1 be re-allotted from Tuscaloosa to Northport, Alabama.

DISCUSSION

2. The community of Helena, Alabama, is located in western Shelby County, Alabama, with a population of 10,296 persons.² Helena has a Mayor and five member town council. The city of Helena provides water and sewer services to its residents. The city has a fifteen officer

1) There is a pending one-step application that seeks to upgrade WLXY to Channel 263C1 at Northport, Alabama (BPH-19991012AAG).

2) 2000 U.S. Census Table DP-1.

Police force, as well as eleven paid, full-time firemen/Emergency Medical Technicians. There are numerous business, churches and residential areas in Helena. The city is also expanding its services to include new fire stations, expansion of its solid waste services and the addition of two city parks.

3. Channel 263C1 can be allotted to Helena, Alabama, with a site restriction of 42.7 kilometers southwest of the community to avoid shortspacing the vacant and un-applied for Channel 264A at Ashland, Alabama; WRRS, Channel 266C, Cullman, Alabama; and WLAY-FM, Channel 262C1, Tusumbia, Alabama.³ The reference site for the proposed allotment of Channel 263C1 at Helena, Alabama, is North Latitude 33° 07' 07" and West Longitude 87° 15' 18". Attached as Exhibit #1 is an area to locate Channel 263C1 at Helena, Alabama. Further, attached as Exhibit #2 is a §73.207 spacing study demonstrating that Channel 263C1 meets the Commission's minimum distance separation requirements to all licensed, applied for or proposed facilities, with the exception of the proposed allotment at Auburn, Alabama.⁴ From the proposed reference site, a theoretical 3.16 mV/m (70 dBu) signal will be provided over Helena.⁵

4. Since the proposed re-allotment of Channel 263C1 from Northport to Helena, Alabama, would remove the only locally licensed FM channel from the community, RSI

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- 3) From the proposed reference site, Channel 263C1 does not meet the Commission's minimum distance separation requirements to the licensed facilities of WWWQ, Channel 263C1, Anniston, Alabama, and Channel 263A at Macon, Mississippi. WWWQ was ordered to change its channel and city of license to Channel 263C3 at College Park, Georgia. WWWQ is presently operating pursuant to automatic program test authority on Channel 263C3 at College Park. The vacant and un-applied for Channel 263A at Macon, Mississippi was deleted in MM Docket 01-38. As such, this channel has no impact on this instant request.
- 4) See footnote 3 supra.
- 5) Based on uniform terrain.

proposes the re-allotment of Channel 225C1 from Tuscaloosa to Northport, Alabama. Channel 225C1 can be allotted to Northport, Alabama, at reference coordinates North Latitude 33° 03' 20" and West Longitude 87° 32' 59". This reflects a site 0.16 kilometer from the presently authorized WTUG site.⁶ The present WTUG site cannot be used as a reference site for the re-allotment, due to being authorized pursuant to §73.215 of the rules. The invocation of §73.215 was to address the shortage to co-channel station WBLX-FM, Mobile, Alabama. The slight adjustment in reference coordinates is to provide the requisite clearance to WBLX-FM under §73.207 of the rules.⁷

5. It is further noted that the proposed reference site for Channel 225C1 at Northport, Alabama, does not meet the minimum distance separation requirements to WJBB-FM, Channel 224A, Haleyville, Alabama. Both Channel 225C1 at Tuscaloosa and Channel 224A at Haleyville were allotted (or proposed to be allotted) prior to October 1989. As can be seen on Exhibit #3, from the presently authorized WTUG site, Channel 225C1 is shortspaced to WJBB-FM by 2.02 kilometers, based on §73.207 of the Commission's rules. This shortage was created as a result in the change of the minimum distance separation requirements for Class A stations when the maximum effective radiated power for this class of station was increased from 3.0 to 6.0 kilowatts in MM Docket #88-375. As detailed in MM Docket #89-322, Channel 225C1 was allotted to Tuscaloosa, Alabama, at a location that did not meet the requirements of §73.207 to Channel 224A at Haleyville, Alabama (see Exhibit #4 for a §73.207 spacing study from the

6) The slight change in coordinates from the authorized WTUG site of 0.16 km (525 feet) is considered de minimus.

7) In BMPH-19901113IG, RSI specifically invoked §73.215 processing only to address the shortage to WBLX-FM, Channel 225C, Mobile, Alabama. The shortages under §73.207 of the rules to WJBB-FM, Channel 224A, Haleyville, Alabama, were addressed under §73.213(c) of the rules. As such, RSI maintains and re-asserts its rights under §73.213(c) with respect to WJBB-FM.

Channel 225C1 reference site).⁸ In Docket #89-332, the Commission stated that WTUG could avail itself of the provisions of §73.213(c) of the rules with respect to WJBB-FM, Channel 224A, Haleyville, Alabama, since the proceeding had commenced prior to the change in the minimum distance separation requirements. As such, Channel 225C1 at Tuscaloosa has a grandfathered shortspace to Channel 224A at Haleyville, Alabama.

6. Applying the distance requirements for a Class C1 facility to be away from a 1st adjacent Class A, under §73.213(c), Channel 225C1 must be a minimum distance of 129.0 kilometers (rather than the 133.0 kilometers listed in §73.207) from WJBB-FM in Haleyville. As such, the proposed reference site at Northport, Alabama, meets the requirements of §73.213(c) toward Haleyville, Alabama (as a grandfathered shortspace), and §73.207 rules to all other facilities.⁹ From the proposed reference site, as detailed on Exhibit #5, Channel 225C1 is located 130.82 kilometers from WJBB-FM. Based on the present distance of WTUG to WJBB-FM of 130.82 kilometers, both distances round to 131.0 kilometers.¹⁰ The distance is also further than that required in §73.213(c) of the rules. In addition, use of the herein proposed reference site at Northport is actually further from WJBB-FM than the allocation site of Channel 225C1 at Tuscaloosa.¹¹ Exhibit #6 is map that demonstrates where Channel 225C1 can be

8) The allocation site for Channel 225C1 at Tuscaloosa, Alabama, in MM Docket #89-322 was made at North Latitude 33° 03' 36" and West Longitude 87° 33' 43". The site is located 130.27 kilometers from the authorized site for WJBB-FM, Haleyville, Alabama.

9) In MM Docket #98-180, the Commission re-allotted a 3.0 kilowatt Class A channel from Fremont, Michigan, to Holton, Michigan, allowing the re-allotment as a grandfathered station under §73.213(c) of the rules. It is noted that WSHN-FM also slightly relocated its site by 0.15 kilometers after the rule making was completed. This slightly increased the shortage to the other two grandfathered co-channel Class A stations, under §73.207, but the distances required under §73.213(c) were still met.

10) Pursuant to §73.208(c)(18) of the rules.

11) From the Tuscaloosa reference point, Channel 225C1 is only 130.27 kilometers from WJBB-FM (130.0 kilometers, when rounded to the nearest kilometer).

located to provide service to Northport, Alabama.¹² From the proposed reference site, a 3.16 mV/m contour will be delivered to Northport, Alabama.¹³

7. Therefore, RSI herein requests the following changes in §73.202 of the Commission's rules.

Helena, Alabama

Present	Proposed
None	263C1

Northport, Alabama

Present	Proposed
263C1	225C1

Tuscaloosa, Alabama

Present	Proposed ¹⁴
225C1, 239C1, 288A	239C1, 288A ¹⁵

-
- 12) Based on §73.213(c) rules to WJBB-FM and §73.207 rules to all other FM facilities.
- 13) Based on uniform terrain. It is the intention of RSI to specify the existing WTUG site to provide service to Northport following the conclusion of this proceeding. The present WTUG facilities provide the requisite 70 dBu signal to Northport. As such, no actual change in coverage will occur.
- 14) AM Stations WTSK, 790 kHz; WSPZ, 1150 kHz; WTBC, 1230 kHz; WWPG, 1280 kHz; and WACT, 1420 kHz, will continue to be licensed to Tuscaloosa, Alabama. Further, non-commercial FM stations WVUA-FM, Channel 214A and WAUL, Channel 218C1 will also remain in Tuscaloosa.
- 15) There is a proposal, MM Docket #01-62, seeking to substitute Channel 290C3 for Channel 288A and reallocate the channel to Brookwood, Alabama.

PUBLIC INTEREST

8. The re-allotment of Channel 263C1 to Helena, Alabama, will provide that community with its first locally licensable FM channel, without depriving Northport of its only local service (based on the re-allotment of Channel 225C1 from Tuscaloosa to Northport).¹⁶ A relocated WLXY operating on Channel 263C1 at Helena will provide 60 dBu (1.0 m.m.) service to 928,298 persons in 16,376.5 square kilometers.¹⁷ This reflects an increase of 760,691 persons in 12,064.8 square kilometers over its presently licensed facilities at Northport.¹⁸ The proposed Class A service at Auburn, Alabama, would provide service to only 101,616 persons in 2,498.3 square kilometers. While Helena, Alabama, is considered a part of the Birmingham Urbanized area, the proposed 70 dBu contour of the re-allotted Channel 263C1 will not provide service to more than 50% of the urbanized area. In fact, as demonstrated on Exhibit #7, WLXY, operating on Channel 263C1 at Helena, will provide service to only 31.7%¹⁹ of the area.

9. Once Channel 263C1 is allotted to Helena, Alabama, and Channel 225C1 is allotted to Northport, Alabama, RSI will submit the required minor change applications for construction

16) Northport is located in the Tuscaloosa Urbanized Area. However, since WTUG already services the Tuscaloosa Urbanized Area and no actual change in site is proposed, there is no effect to the present coverage of the Urbanized Area.

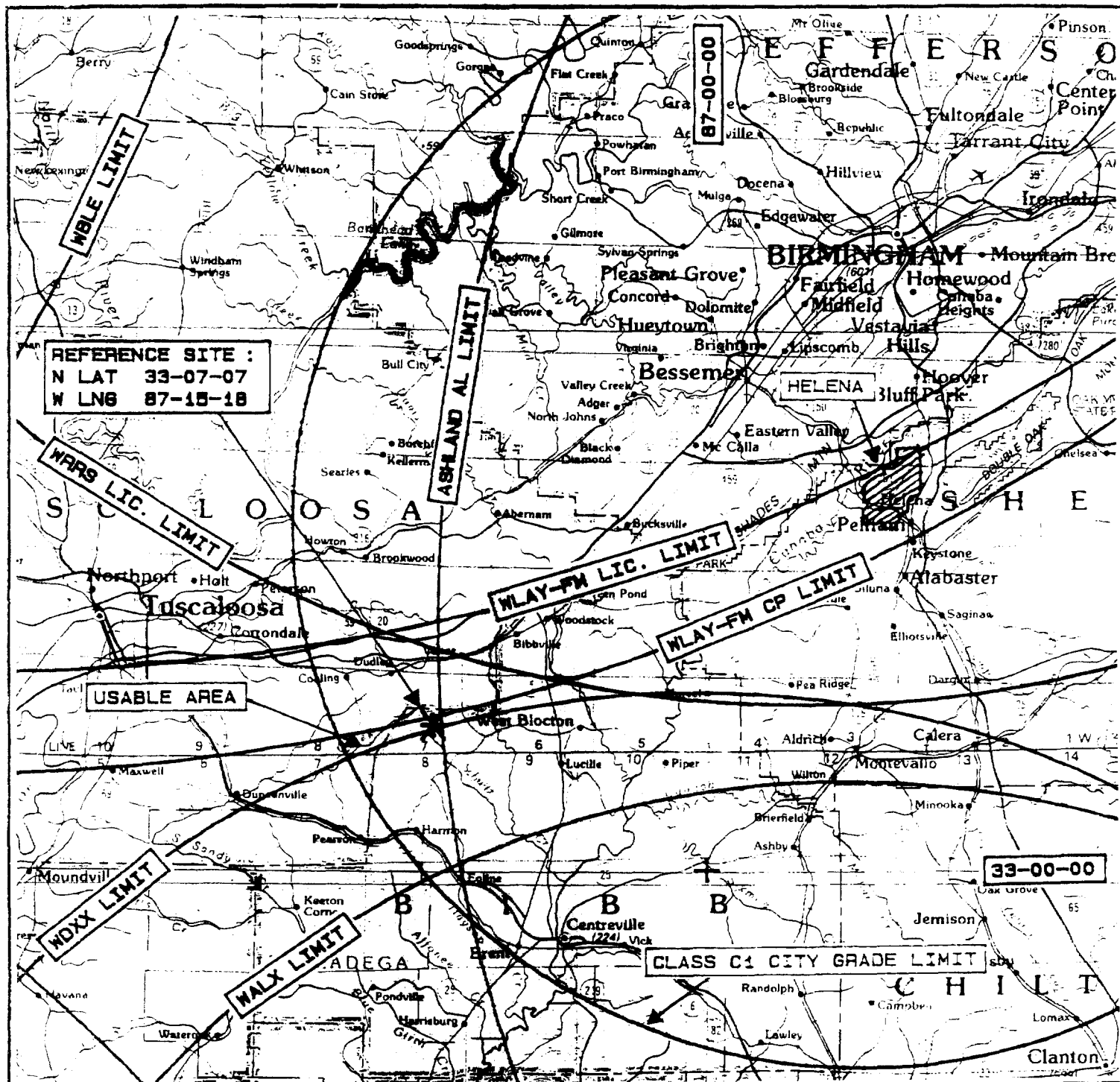
17) It is noted that no white (first aural) or gray (second aural) service will be created nor will the relocated channel provide any white or gray coverage, based on the re-allotment of Channel 263C1 to Helena or the Channel 225C1 to Northport.

18) The present WLXY licensed facility provides service to 173,028 persons in 4,797.0 square kilometers. There is a small area of loss to 5,421 persons in 485.7 square kilometers. However, that area is already served by more than five existing services. Further, the pending WLXY Class C1 application has not yet been granted. Therefore, a comparison of the populations service was not undertaken since this did not constitute actual service.

19) Area and population calculated utilizing a polar planimeter.

permit (FCC Form 301) seeking authority to make the changes to the facilities of WLXY and WTUG, respectively.

10. The foregoing technical statement was prepared on behalf of Radio South Inc., by Graham Brock, Inc., its Technical Consultants. All data related to FM facilities was extracted from the CDBS database, all population data from the PL 94-171 files (2000 Census). We assume no liability for errors or omissions in those databases, which may be adverse to the requests contained herein.



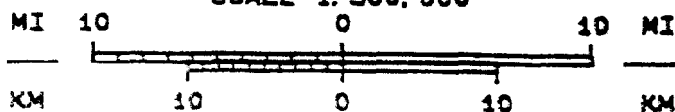
USABLE AREA CHANNEL 263C1

MAP IS A PORTION OF THE 1:500,000 SCALE
U.S.G.S. BASE MAP OF ALABAMA.

EXHIBIT #1

COMMENTS & COUNTERPROPOSAL
MM DOCKET #01-104
RADIO SOUTH, INC.
RE-ALLOT CHANNEL 263A
HELENA, ALABAMA
June 2001

SCALE 1:500,000



GRAHAM BROCK, INC.

BROADCAST TECHNICAL CONSULTANTS

REFERENCE	CLASS	DISPLAY DATES					
33 07 07 N	C1	06-15-01					
87 15 18 W	Current rules spacings	SEARCH 06-18-01					
----- CHANNEL 263 -100.5 MHz -----							
CALL	CH#	CITY	STATE	BEAR'	D-KM	R-KM	MARGIN
TYPE	LAT	LNG	PWR	HT	D-Mi	R-Mi	(KM)
WLXY.A	263C1	Northport	AL	255.4	28.38	245.0	-216.62
APP CX	33 03 15	87 32 57	100.000 kW	299M	17.6	152.3	
Radio South, Inc.			BFH-19991012AAG				
WDXX	261C2	Selma	AL	163.3	79.30	79.0	0.30
LIC CN	32 26 02	87 00 40	50.000 kW	88M	49.3	49.1	
Broadsouth Communications, Inc.			BLH-19900824KA				
WLAYFM	262C1	Tuscumbia	AL	346.3	177.58	177.0	0.58
CP CX	34 40 23	87 42 53	100.000 kW	211M	110.4	110.0	
Clear Channel Broadcasting Lic.			BFH-20000424ABJ				
RADD	264A	Ashland	AL	84.7	133.74	133.0	0.74
ADD	33 13 15	85 49 35	0.000 kW	0M	83.1	82.7	
			RM-9268				
WRRS	266C	Cullman	AL	16.8	111.68	105.0	6.68
LIC CN	34 04 54	86 54 13	100.000 kW	376M	69.4	65.3	
Eddins Broadcasting Company			BLH-19960118KC				
WRRS.C	266C	Cullman	AL	16.8	111.73	105.0	6.73
CP CX	34 04 56	86 54 15	100.000 kW	410M	69.4	65.3	
Eddins Broadcasting Company			BFH-20010320AAI				
WLAYFM	262C1	Tuscumbia	AL	347.8	186.01	177.0	9.01
LIC EN	34 45 24	87 41 10	100.000 kW	75M	115.6	110.0	
Clear Channel Broadcasting Lic.			BLH-6812				
WALX	265C2	Selma	AL	157.0	91.26	79.0	12.26
LIC CN	32 21 40	86 52 28	50.000 kW	150M	56.7	49.1	
Alexander Broadcasting Company			BLH-19890324KC				
ALLO	263C2	Anniston	AL	79.9	253.55	224.0	29.55
VACZ	33 29 22	84 34 07	0.000 kW	0M	157.6	139.2	
			BMPH-20010305AAP				
WNSL	262C	Laurel	MS	225.5	250.00	209.0	41.00
LIC CN	31 31 37	89 08 07	100.000 kW	325M	155.4	129.9	
Capstar TX Limited Partnership			BLH-19850701LE				
WBLE	263C2	Batesville	MS	301.8	271.41	224.0	47.41
LIC CN	34 22 44	89 45 57	50.000 kW	150M	168.7	139.2	
Batesville Broadcasting Co.			BLH-19890828KD				
971211	209A	Selma	AL	170.1	69.87	22.0	47.87
APP VN	32 29 53	87 07 34	6.000 kW	41M	43.4	13.7	
Broadcasting For The Challenged			BPED-19971211MA				

COMMENTS AND COUNTERPROPOSAL

MM DOCKET #01-104

RADIO SOUTH, INC.

RE-ALLOT CHANNEL 263C1

HELENA, ALABAMA

RE-ALLOT CHANNEL 225C1

NORTHPORT, ALABAMA

June 2001

EXHIBIT #3

PRESENT CLEARANCE STUDY FOR WTUG-FM TUSCALOOSA, ALABAMA
USING PRESENT LICENSED SITE AS REFERENCE

REFERENCE	CLASS C1	DISPLAY DATES
33 03 15 N		DATA 06-15-01
87 32 57 W	Current rules spacings	SEARCH 06-18-01
----- CHANNEL 225 - 92.9 MHz -----		

CALL TYPE	CH# LAT	CITY LNG	STATE PWR	BEAR' HT	D-KM D-Mi	R-KM R-Mi	MARGIN (KM)
WTUGFM	225C1	Tuscaloosa	AL	0.0	0.00	245.0	-245.00
LIC CN	33 03 15 87 32 57	100.000 kW	299M	0.0	152.3		
		Radio South, Inc.		BLH-19910318KD			
* WJBBFM	224A	Haleyville	AL	356.9	130.98	133.0	-2.02
LIC CN	34 14 00 87 37 32	3.900 kW	73M	81.4	82.7		
		Haleyville Broadcasting Co.		BMLH-19900531KB			
WBLXFM	225C	Mobile	AL	182.0	269.35	270.0	-0.65
LIC CY	30 37 35 87 38 50	100.000 kW	474M	167.4	167.8		
		Cumulus Licensing Corp.		BMLH-19880329KE			
WQOPFM	223A	Dora	AL	28.9	75.44	75.0	0.44
LIC CN	33 38 55 87 09 19	2.200 kW	167M	46.9	46.6		
		Queen Of Peace Radio, Inc.		BLH-19971009KB			
* WJBBFM	224A	Haleyville	AL	356.9	130.98	129.0	1.98
LIC CN	34 14 00 87 37 32	3.900 kW	73M	81.4	80.2		
		Haleyville Broadcasting Co.		BMLH-19900531KB			
WTDR	224A	Talladega	AL	71.2	153.20	133.0	20.20
LIC C	33 29 12 85 59 15	2.600 kW	154M	95.2	82.7		
		Jacobs Broadcast Group, Inc.		BLH-20010116ABQ			
R---	278C3	Eutaw	AL	241.8	47.85	24.0	23.85
	32 51 00 88 00 00	0.000 kW	0M	29.7	14.9		
				RM-10116			
WSYE	227C	Houston	MS	302.5	145.81	105.0	40.81
LIC CN	33 45 06 88 52 40	100.000 kW	550M	90.6	65.3		
		Jmd, Inc.		BLH-19901017KB			
WLWIFM	222C	Montgomery	AL	119.4	145.90	105.0	40.90
LIC CN	32 24 11 86 11 48	100.000 kW	334M	90.7	65.3		
		Cumulus Licensing Corp.		BLH-19890412KA			
RADD	279C1	Trussville	AL	55.0	75.90	34.0	41.90
ADD	33 26 38 86 52 47	0.000 kW	0M	47.2	21.1		
				RM-10053			
WAFNFM	224A	Arab	AL	35.1	176.78	133.0	43.78
APP CX	34 21 04 86 26 27	1.700 kW	190M	109.9	82.7		
		Fun Media Group, Inc.		BMPH-20001218ADE			

* Note : The clearance to WJBB-FM is based on §73.213(c).

COMMENTS AND COUNTERPROPOSAL

MM DOCKET #01-104

RADIO SOUTH, INC.

RE-ALLOT CHANNEL 263C1

HELENA, ALABAMA

RE-ALLOT CHANNEL 225C1

NORTHPORT, ALABAMA

June 2001

EXHIBIT #4

CLEARANCE STUDY FOR CHANNEL 225C1 TUSCALOOSA, ALABAMA
FROM MM DOCKET #89-332 ALLOCATION SITE

REFERENCE	CLASS C1	DISPLAY DATES
33 03 36 N		DATA 06-15-01
87 33 43 W	Current rules spacings	SEARCH 06-18-01
----- CHANNEL 225 - 92.9 MHz -----		

CALL	CH#	CITY	STATE	BEAR'	D-KM	R-KM	MARGIN
TYPE	LAT	LNG	PWR	HT	D-Mi	R-Mi	(KM)

WTUGFM	225C1	Tuscaloosa	AL	118.6	1.36	245.0	-243.64
LIC CN	33 03 15	87 32 57	100.000 kW	299M	0.9	152.3	
	Radio South, Inc.			BLH-19910318KD			
*	WJBBFM	224A Haleyville	AL	357.4	130.27	133.0	-2.73
LIC CN	34 14 00	87 37 32	3.900 kW	73M	81.0	82.7	
	Haleyville Broadcasting Co.			BMLH-19900531KB			
	WBLXFM	225C Mobile	AL	181.7	269.96	270.0	-0.04
LIC CY	30 37 35	87 38 50	100.000 kW	474M	167.8	167.8	
	Cumulus Licensing Corp.			BMLH-19880329KE			
	WQOPFM	223A Dora	AL	29.9	75.46	75.0	0.46
LIC CN	33 38 55	87 09 19	2.200 kW	167M	46.9	46.6	
	Queen Of Peace Radio, Inc.			BLH-19971009KB			
*	WJBBFM	224A Haleyville	AL	357.4	130.27	129.0	1.27
LIC CN	34 14 00	87 37 32	3.900 kW	73M	81.0	80.2	
	Haleyville Broadcasting Co.			BMLH-19900531KB			
	WTDR	224A Talladega	AL	71.6	154.13	133.0	21.13
LIC C	33 29 12	85 59 15	2.600 kW	154M	95.8	82.7	
	Jacobs Broadcast Group, Inc.			BLH-20010116ABQ			
R---	278C3	Eutaw	AL	240.4	47.12	24.0	23.12
	32 51 00	88 00 00	0.000 kW	0M	29.3	14.9	
				RM-10116			
	WSYE	227C Houston	MS	302.6	144.46	105.0	39.46
LIC CN	33 45 06	88 52 40	100.000 kW	550M	89.8	65.3	
	Jmd, Inc.			BLH-19901017KB			
	WLWIFM	222C Montgomery	AL	119.4	147.26	105.0	42.26
LIC CN	32 24 11	86 11 48	100.000 kW	334M	91.5	65.3	
	Cumulus Licensing Corp.			BLH-19890412KA			
RADD	279C1	Trussville	AL	55.9	76.51	34.0	42.51
ADD	33 26 38	86 52 47	0.000 kW	0M	47.5	21.1	
				RM-10053			
	WAFNFM	224A Arab	AL	35.5	176.94	133.0	43.94
APP CX	34 21 04	86 26 27	1.700 kW	190M	110.0	82.7	
	Fun Media Group, Inc.			BMPH-20001218ADE			

* Note : The clearance to WJBB-FM is based on §73.213(c).

COMMENTS AND COUNTERPROPOSAL

MM DOCKET #01-104

RADIO SOUTH, INC.

RE-ALLOT CHANNEL 263C1

HELENA, ALABAMA

RE-ALLOT CHANNEL 225C1

NORTHPORT, ALABAMA

June 2001

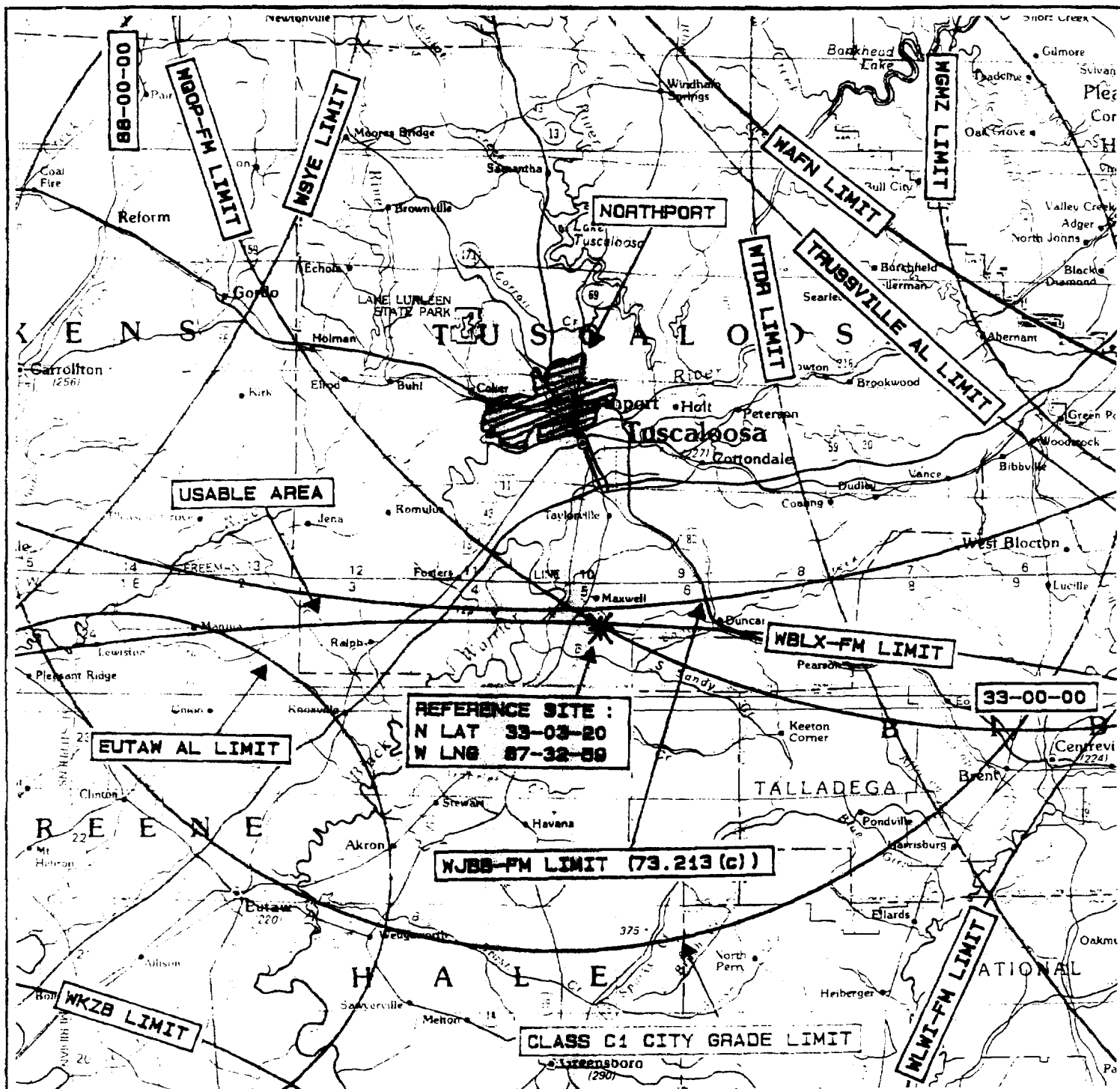
EXHIBIT #5

ALLOCATION STUDY FOR CHANNEL 225C1 NORTHPORT, ALABAMA
USING PROPOSED ALLOCATION SITE AS REFERENCE

REFERENCE	CLASS C1	DISPLAY DATES
33 03 20 N		DATA 06-15-01
87 32 59 W	Current rules spacings	SEARCH 06-18-01
----- CHANNEL 225 - 92.9 MHz -----		

CALL TYPE	CH# LAT	CITY LNG	STATE PWR	BEAR' HT	D-KM D-Mi	R-KM R-Mi	MARGIN (KM)
WTUGFM	225C1	Tuscaloosa	AL	161.5	0.16	245.0	-244.84
LIC CN	33 03 15	87 32 57	100.000 kW	299M	0.1	152.3	
		Radio South, Inc.				BLH-19910318KD	
* WJBBFM	224A	Haleyville	AL	357.0	130.82	133.0	-2.18
LIC CN	34 14 00	87 37 32	3.900 kW	73M	81.3	82.7	
		Haleyville Broadcasting Co.				BMLH-19900531KB	
WBLXFM	225C	Mobile	AL	182.0	269.51	270.0	-0.49
LIC CY	30 37 35	87 38 50	100.000 kW	474M	167.5	167.8	
		Cumulus Licensing Corp.				BMLH-19880329KE	
WQOPFM	223A	Dora	AL	28.9	75.33	75.0	0.33
LIC CN	33 38 55	87 09 19	2.200 kW	167M	46.8	46.6	
		Queen Of Peace Radio, Inc.				BLH-19971009KB	
* WJBBFM	224A	Haleyville	AL	357.0	130.82	129.0	1.82
LIC CN	34 14 00	87 37 32	3.900 kW	73M	81.3	80.2	
		Haleyville Broadcasting Co.				BMLH-19900531KB	
WTDR	224A	Talladega	AL	71.3	153.20	133.0	20.20
LIC C	33 29 12	85 59 15	2.600 kW	154M	95.2	82.7	
		Jacobs Broadcast Group, Inc.				BLH-20010116ABQ	
R---	278C3	Eutaw	AL	241.6	47.88	24.0	23.88
	32 51 00	88 00 00	0.000 kW	0M	29.8	14.9	
						RM-10116	
WSYE	227C	Houston	MS	302.5	145.68	105.0	40.68
LIC CN	33 45 06	88 52 40	100.000 kW	550M	90.5	65.3	
		Jmd, Inc.				BLH-19901017KB	
WLWIFM	222C	Montgomery	AL	119.5	146.02	105.0	41.02
LIC CN	32 24 11	86 11 48	100.000 kW	334M	90.8	65.3	
		Cumulus Licensing Corp.				BLH-19890412KA	
RADD	279C1	Trussville	AL	55.1	75.85	34.0	41.85
ADD	33 26 38	86 52 47	0.000 kW	0M	47.1	21.1	
						RM-10053	
WAFNFM	224A	Arab	AL	35.1	176.68	133.0	43.68
APP CX	34 21 04	86 26 27	1.700 kW	190M	109.8	82.7	
		Fun Media Group, Inc.				BMPH-20001218ADE	
WAFNFM	224A	Arab	AL	35.1	176.68	133.0	43.68
CP CN	34 21 04	86 26 27	6.000 kW	100M	109.8	82.7	
		Fun Media Group, Inc.				BPH-20000809AAG	

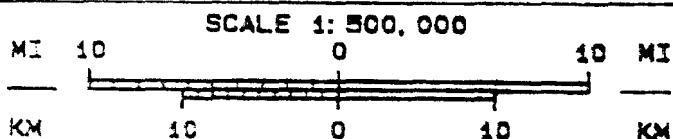
* Note : The clearance to WJBB-FM is based on §73.213(c).



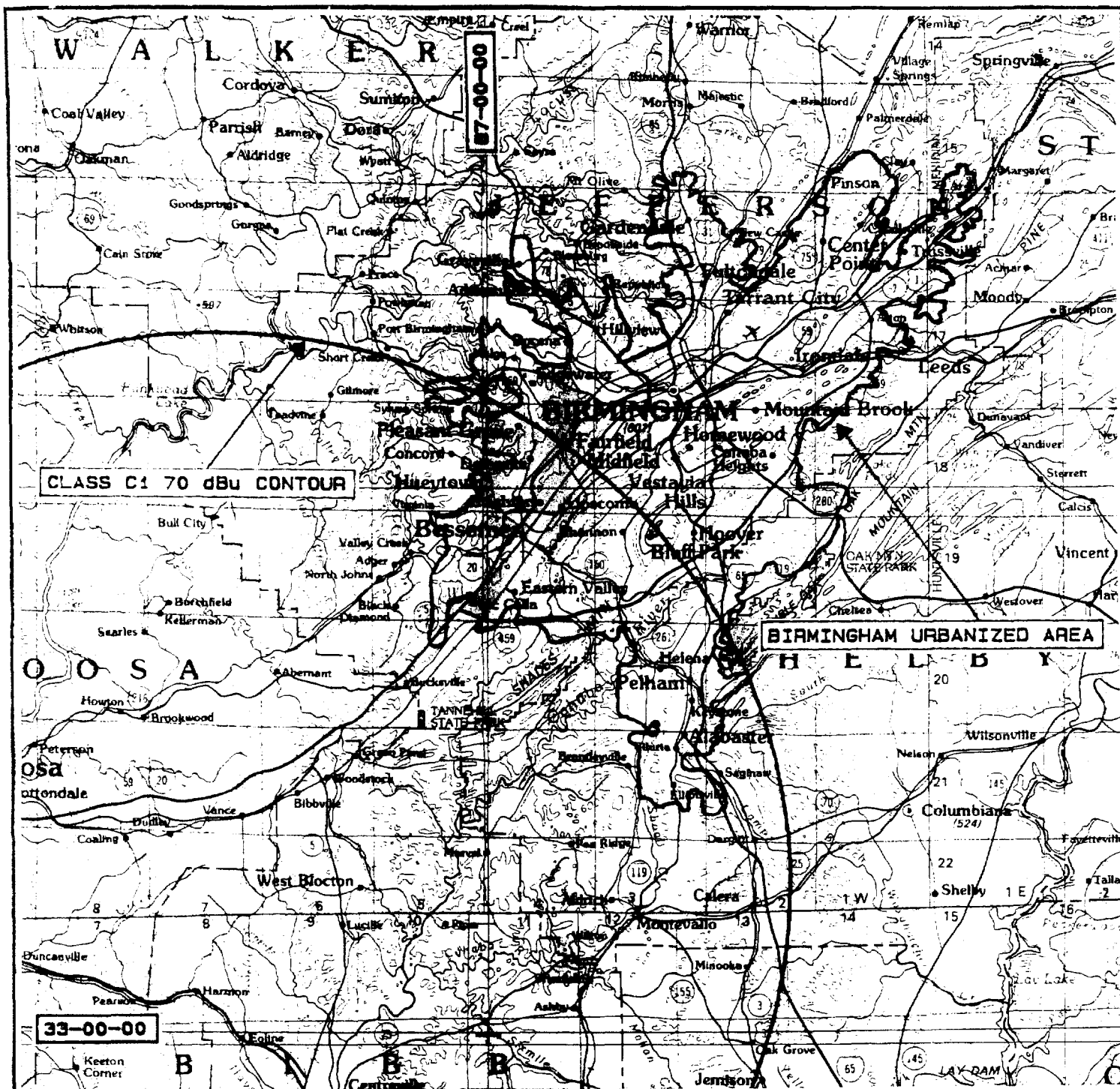
USABLE AREA CHANNEL 225C1

MAP IS A PORTION OF THE 1: 500, 000 SCALE
U.S.G.S. BASE MAP OF ALABAMA.

EXHIBIT #6
COMMENTS & COUNTERPROPOSAL
MM DOCKET #01-104
RADIO SOUTH, INC.
RE-ALLOT CHANNEL 263A
HELENA, ALABAMA
June 2001



GRAHAM BROCK, INC.
BROADCAST TECHNICAL CONSULTANTS



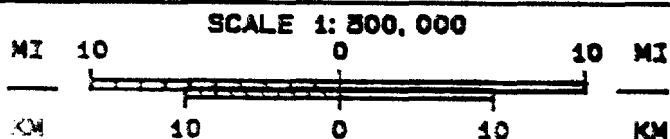
URBANIZED AREA COVERAGE

MAP IS A PORTION OF THE 1: 500, 000 SCALE
U.S.G.S. BASE MAP OF ALABAMA.

URBANIZED AREA BOUNDARY EXTRACTED FROM
THE 1990 U.S. CENSUS - ALABAMA.

EXHIBIT #7

COMMENTS & COUNTERPROPOSAL
MM DOCKET #01-104
RADIO SOUTH, INC.
RE-ALLOT CHANNEL 263A
HELENA, ALABAMA
June 2001



GRAHAM BROCK, INC.
BROADCAST TECHNICAL CONSULTANTS

AFFIDAVIT AND QUALIFICATIONS OF CONSULTANT

State of Georgia)
St. Simons Island) ss:
County of Glynn)

JEFFERSON G. BROCK, being duly sworn, deposes and says that he is an officer of Graham Brock, Inc. Graham Brock has been engaged by Radio South, Inc., to prepare the attached Technical Exhibit.

His qualifications are a matter of record before the Federal Communications Commission. He has been active in Broadcast Engineering since 1979.


The attached report was either prepared by him or under his direction and all material and exhibits attached hereto are believed to be true and correct.

This the 18th day of June, 2001.



Jefferson G. Brock
Affiant

*Sworn to and subscribed before me
this the 18th day of June, 2001.*



Notary Public, State of Georgia
My Commission Expires April 20, 2002